

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR  
PROTECTION CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT SECURITIES  
LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of Bernard  
L. Madoff Investment Securities LLC,

Plaintiff,

v.

BARCLAYS BANK (SUISSE) S.A., BARCLAYS BANK  
S.A., and BARCLAYS PRIVATE BANK & TRUST  
LIMITED,

Defendants.

Adv. Pro. No. 11-02569 (SMB)

**BARCLAYS DEFENDANTS-APPELLEES' COUNTER-DESIGNATION  
OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL**

Defendants-Appellees Barclays Bank (Suisse) S.A., Barclays Bank S.A., and Barclays Private Bank & Trust Limited (collectively, the "Barclays Appellees"), by and through their undersigned counsel, respectfully submit, pursuant to Rule 8009 of the Federal Rules of Bankruptcy Procedure and Rule 8009-12 of the Local Bankruptcy Rules for the Southern District of New York, their counter-designation of items to be included in the record on appeal with

respect to the appeal by Irving H. Picard (the “Trustee”), as trustee of the substantively consolidated estate of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act (“SIPA”), 15 U.S.C. §§ 78aaa, *et seq.*, and Bernard L. Madoff, individually, in the above captioned adversary proceeding of the Stipulated Final Order Granting Motion to Dismiss Complaint (the “Final Judgment”) to the United States Court of Appeals for the Second Circuit.

**COUNTER-DESIGNATION OF ITEMS TO BE  
INCLUDED IN THE RECORD ON APPEAL<sup>1</sup>**

1. All items designated or to be designated by any other appellant, cross-appellant, appellee, or cross-appellee to any of the appeals or cross-appeals from the Final Judgment, including, without limitation, the items designated in the Trustee’s Statement of Issues to be Presented and Designation of Items to be Included in the Record on Appeal (ECF No. 107),<sup>2</sup>

2. The Certification of Direct Appeal to Court of Appeals (ECF No. 109); and

3. The April 8, 2016 Letter on Behalf of the Subsequent transferee Defendants in Response to Mr. Sheehan’s April 7, 2016 Letter (*Secs. Inv. Protection Corp. v. Bernard L. Madoff Inv. Secs., LLC*, Adv. Pro. No. 08-01789 (SMB), (ECF No. 13070).

**RESERVATION OF RIGHTS**

The Barclays Appellees expressly reserve the right to supplement the record on appeal or cross-appeal and to adopt the designation of any items designated or counter-designated by any other appellant, cross-appellant, appellee, or cross-appellee to any of the appeals or cross-appeals from the Final Judgment.

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<sup>1</sup> Items designated include all exhibits and submissions attached thereto and, as to hearing transcripts, any and all documents admitted into evidence.

<sup>2</sup> Unless otherwise stated, citations to “(ECF No. \_\_\_\_\_)” refer to docket entries in the proceeding captioned *Picard v. Barclays Bank (Suisse) S.A., et. al.*, Adv. Pro. No. 11-02569 (SMB) (Bankr. S.D.N.Y.)

Dated: New York, New York  
April 11, 2017

**HOGAN LOVELLS US LLP**

By: /s/ Marc J. Gottridge  
Marc J. Gottridge  
Benjamin J.O. Lewis  
marc.gottridge@hoganlovells.com  
ben.lewis@hoganlovells.com  
875 Third Avenue  
New York, NY 10022  
Telephone (212) 918-3000  
Facsimile (212) 918-3100

*Attorneys for Defendants-Appellees Barclays Bank  
(Suisse) S.A., Barclays Bank S.A., and Barclays  
Private Bank & Trust Limited*